

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**DANNY MANZANARES,**

**Plaintiff,**

**vs.**

**CIV No. 05-0095 WPJ/LFG**

**SEAN HIGDON, an Officer of the  
Albuquerque Police Department,  
Individually,**

**Defendant.**

**PLAINTIFF'S PROPOSED VOIR DIRE**

Plaintiff **DANNY MANZANARES**, through his attorneys, Dennis W. Montoya, MONTOYA LAW, INC., and Arlon L. Stoker hereby propounds his proposed voir dire.

1. Do you or anyone in your family know of the following:
  - a. Parties to this case;
  - b. Witnesses who may testify in this case;
  - c. Lawyers for the parties in this case;
  - d. The judge and his staff
  - e. Any attorneys or judges other than those in this case;
  - f. Any other members of the jury panel.
2. Have any of you worked in a job connected with law enforcement, whether it be a police department, a sheriffs office, jail or prison, courts or attorneys? Does anyone have a family member or close friend who works in any law enforcement connected job? Would such involvement affect you in this case?

3. Have you or any family members or friends ever studied the law or gone to law school?

4. Have you ever served on a jury before, civil or criminal? If so, were you the foreman/foreperson?

5. If you have served on a jury in a civil trial, did the jury reach a verdict? Was it a unanimous verdict?

6. Have you or any family member or friend ever been a witness in a trial, civil or criminal?

7. Have you or any family members or friends ever served in the armed forces?

8. You are going to be the judge of what the facts are in this case and whether a witness is being truthful. How do you feel about performing this job? Will you consider whether the testimony of the witness is consistent and plausible and believable?

9. Do you have children? Have any of your children had contacts with police officers, either as victims of crime, or because they gave information to the police about suspected criminal activity, or because they were suspects in criminal activity or arrested or otherwise charged with crimes?

10. Have any of you had contact with police officers because of your children, for any of the reasons listed in the earlier question or for some other reason?

11. Do you believe that police officers are less likely to lie than other people?

12. Do you believe that police officers are more likely to be truthful than other people?

13. Do you believe that police officers are more entitled to be believed than any other witness?

14. Are there reasons why a police officer would not tell the truth?

15. Do you think a police officer is required to have "thicker skin" than other people?

16. Do you understand that a police officer's testimony is not more or less believable than the testimony of others just because he is a police officer? When you listen to the police officers who will testify in this case, will you consider whether this testimony is consistent and plausible and believable?

17. In this case, the defendant police officer from Albuquerque. He and other Albuquerque police officers will be here to testify. Will you just accept whatever they say or determine on your own whether their testimony is truthful, logical and believable?

18. Some of the witnesses in this case are police officers who still work in the Albuquerque Police Department. If you had to testify about your coworker who was accused of doing something wrong, are there reasons you would feel uncomfortable in that situation?

19. What do you think about the idea that police officers should be liable for improper conduct?

20. Do you feel that a police officer should be held responsible if he violates a person's civil rights?

21. How many of you have friends and/or family working for a police department? From your own experience or your discussions with your friend/ family member on the police force, or who work with the police, have you ever heard about bad cops who are willing to lie or to plant evidence? Tell me about that.

22. Do you think there has been too much criticism of the police recently? Why? Have you ever heard of an innocent person being picked up and falsely accused by the police because of a past criminal record? Why do you think that happens?

23. How honest do you think police officers are as compared with everyone else'? More truthful? Less truthful? About the same? What makes you think that way? What is that opinion based on?

24. Anyone feel uncomfortable passing judgment on an officer? For any reason would you hesitate to enter a judgment against a law enforcement officer who broke the law?

25. If the judge instructs you on what the standard is for deciding whether the defendant's conduct violated the plaintiff's civil rights, would you be able to rule against the defendant if you find that the plaintiff has proved that the defendant's actions met that standard?

26. Has anyone served as a juror? In a civil or criminal case? Were you ever a grand juror? Was that a good or bad experience?

27. Do you understand that this is a civil lawsuit to decide whether defendant violated the Plaintiff's civil rights? Do you understand that this is not a criminal case seeking criminal penalties?

28. Do you understand that in a criminal case, one must prove guilt beyond a reasonable doubt, but in a civil case the burden of proof is to prove the facts by a preponderance of the evidence? In other words, if you have scales, one scale need only outweigh the other by the smallest margin in the civil case but in a criminal case, one scale must outweigh the other by a tremendous margin?

29. Would you be able to apply the burden of proof for a civil case to this case and forget what you have heard about the burden of proof for a criminal case?

30. If at the end of this case you still have some doubts but feel that the plaintiff has satisfied his burden of proof, by proving the facts by a preponderance of the evidence, would you still be able to give a verdict to him even though you have some doubts?

31. Have you ever been sued in a lawsuit? Has anyone in your family or a friend ever been sued in a court case of any kind? Would this involvement affect you in this case? What was the outcome of the case? Were you or your family member or friend satisfied with the outcome? Who was the lawyer who represented you or your family member or friend?

32. Does anyone know any person who is or was in the past an elected or appointed member of the Albuquerque city government, or an employee of the city government or the police force in Albuquerque?

33. Do any of you feel you could not be fair to both sides in a case where the plaintiff is suing a government employee?

34. Do you have any beliefs that citizens should not be allowed to sue the government, such as a city, or government employees? Do you think people ought to be able to sue employees of a government? Why do you think people should be able to sue government employees?

35. Have you ever expressed any opinions concerning the problem of police misconduct or police brutality? If so, what opinions have you expressed?

36. Have any of you or a family member or friend ever worked for an insurance company? How would that influence how you decide the facts of this case? Does anyone have any other experience evaluating claims experience? Have you any experience determining how many dollars might be just compensation for any type of injury or wrong?

37. How do you feel about the court system in the United States today?

38. Some people think that there are too many lawsuits; what do you think?

39. How do you feel about the jury system?

40. Do you think the jury system works?

41. Do you think people should not use our legal system for receiving compensation for their injuries, but should just simply accept their injuries?

42. How many of you hold the belief that police officers have such a difficult job, that they should never be sued?

43. How many of you would rather not serve on a jury where a police officer is being sued?

44. Is there anyone who feels that an award of money damages is never appropriate?

45. If you thought that you were injured and it was someone else's fault, would you consider bringing a lawsuit?

46. Do you agree that all persons are entitled to seek justice when the law provides them an opportunity to do so?

47. Do you think that a way to change the behavior of a person who has violated the civil rights of another is to make him pay money damages? Can you think of any other way to change that person's behavior?

48. Have you read anything or seen any television programs or heard anything from others about jury verdicts in the United States?

49. Have you discussed this with family or friends?

50. Have you heard of a jury verdict that you thought that was too high? Too low?

51. What is worse, for a jury to award too much or too little? Why?

52. Do you think people are getting millions of dollars for spilling scalding hot coffee on themselves? Why does this occur?

53. Does anyone believe that a person should not be able to recover money damages be for what resulted from another person's improper or wrongful conduct?

54. If you learned that jury returned a verdict of one million dollars for a headache resulting from an automobile accident, would that offend you as being much too high? But if you learned that a jury returned a verdict for \$1,000.00 for someone who lost a leg in the same accident, would that offend you as being too low?

55. Would you agree that each case is different?

56. Would you agree that whether a verdict is fair and adequate depends on the injury?

57. What concerns do you have about giving money to people for injuries they have suffered? What concerns do you have about giving people money for injuries they have suffered that they did not spend money to have treated, such as emotional pain and suffering?

58. Do you have any concerns that if a plaintiffs injuries can be fairly compensated by a certain amount of money, the plaintiff should not receive that amount because it is a lot of money?

59. Can you follow instructions regarding what to award the plaintiff in money damages even if you disagree with those instructions?

60. Would you have difficulty entering a large award against a police officer, as compared to anyone else, for fear that the officer would have to pay that award? Could you enter a judgment against a police officer, without being instructed as to whether he would have to pay the judgment?

61. In this case, the Plaintiff will ask for money damages for his emotional pain and suffering as a result of what he claims the defendant did to him even though he did not spend any money to be treated for his injuries. Is there anyone who believes that even if the Plaintiff proves

his case, he should not receive money for his injuries because he did not spend any money on treatment?

62. The Plaintiff is also asking that the jury in this case to award punitive damages against defendant. Can you follow instructions regarding an award of punitive damages to the Plaintiff even if you disagree with those instructions? Some people think an award of punitive damages is a windfall to the plaintiff. Other people think that an award of punitive damages sends a message, not only to the person who violated the rights of another but to others who might abuse their governmental power as well, that our society will not tolerate such behavior. How do you feel about the idea of awarding punitive damages to a person whose civil rights have been violated?

63. Do you have any personal experience which would make sitting as a juror in this particular case difficult for you?

64. This trial will take about 3 days; right now, it is scheduled to begin on Tuesday, September 5<sup>th</sup>. Being a juror requires active participation and full attention to the facts and evidence in the case. Do you have any pressing personal business or other matters that would prevent you from devoting your full attention to the facts of this case?

65. Do any of you suffer from any physical infirmity or impairment or have any serious medical problems or have any problems with your eyesight or hearing?

66. Is there anyone who would like to discuss something privately with the judge and the lawyers that relates to your ability to serve as a juror in this case?

67. You have heard my questions, but let me ask you—is there anything you want to add or ask? Is there anything you think I should have asked, but didn't?

68. My last question: Is there anything based on what you've heard this morning that makes you think perhaps you would not be a good juror for this case? Why or why not?

Respectfully submitted,  
**MONTOYA LAW, INC.**

**(ELECTRONICALLY FILED)**

By: \_\_\_\_\_  
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I certify that a true copy of the foregoing was faxed to opposing counsel at 505.768.4525 on Monday, August 28, 2006.

**(ELECTRONICALLY FILED)**

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Dennis W. Montoya